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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,091	09/28/2001	Yu Zheng	PAT-1384	6648
7590	10/05/2004		EXAMINER	
Raymond Sun 12420 Woodhall Way Tustin, CA 92782			FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/967,091	ZHENG, YU
	Examiner Faye Francis	Art Unit 3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 August 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 and 28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 5 is/are allowed.

6) Claim(s) 1-4, 6-7 and 28 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-4 and 7 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Goldfarb.

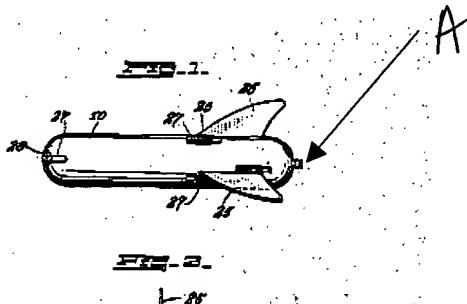
Goldfarb discloses in Figs 1-4, an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, an elongated gripping piece [nozzle 13 which is inherently capable of being gripped] that is provided along a portion of the length, a nose piece [cork 28] made from a material that is different from that of the elongated body and a plurality of curved tails [fins 16-17 and 19-20] as recited in claims 1 and 4. Additionally, Goldfarb discloses the tails are made from a material that is the same as that of the elongated body [col 2 lines 4-6] as recited in claim 3.

3. Claims 1-2, 4, 6 and 28 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson [2,763,958], hereinafter Lemelson.

Lemelson discloses in Figs 1-2 (also see Figure below wherein the letter A has been added by the examiner), an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, an elongated gripping piece [tab 26 which is inherently capable of being gripped] is provided along a portion of the length of the elongated body, a nose piece [weight 28] made from a material that is different from that

of the elongated body, a plurality of curved tails [fins 25] as recited in claims 1 and 4.

Also, Lemelson discloses the tails are made from a material that is different from that of the elongated body as recited in claim 2, a tailpiece [pressure-sensitive tape 27] as recited in claim 6 and an nozzle A as recited in claim 28.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4 and 6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Goldfarb. Lemelson is interpreted differently herein than as set forth in paragraph 2.

Lemelson discloses in Figs 1-2 (also see Figure above wherein the letter A has been added by the examiner), an inflatable toy apparatus, comprising: an inflatable elongated body 10 having a length, an elongated gripping piece A [A is inherently capable of being gripped], a nose piece [weight 28] and a plurality of curved tails [fins

25] as recited in claims 1 and 4. Additionally, Lemelson discloses a tailpiece [pressure-sensitive tape 27] as recited in claim 6.

Lemelson does not disclose that the A [elongated gripping piece] is provided along a portion of the length of the elongated body.

Goldfarb teaches the concept of providing an inflatable aerial toy with a central orifice 14 [gripping piece through which a tube may be inserted for inflating the inflatable aerial toy] along a portion of the length of it's elongated body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provided device of Lemelson with the central orifice [gripping piece] along the portion of the length of the elongated body as taught by Goldfarb for easy access while inflating the device and for aesthetic reasons.

Allowable Subject Matter

6. Claim 5 is allowed.

Response to Arguments

7. Applicant's arguments filed 8/12/04 have been fully considered but they are not persuasive.

In response to applicant's argument in page 4, the device of Goldfarb and Lemelson both clearly disclose an elongated gripping piece, which inherently is capable of being gripped by a user.

In response to applicant's argument that the Examiner ignores the normal meaning of the word "gripping", which means the piece must be capable of being gripped by a user and that to grip something, a user must be able to place more than

one finger onto the piece, otherwise it would not be possible establish a "grip". The examiner disagrees with applicant's assertion. In order to grip something, a user does not have to place more than one finger onto the piece, a user may use his or her fingers or arms or teeth or even toes to grip something.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

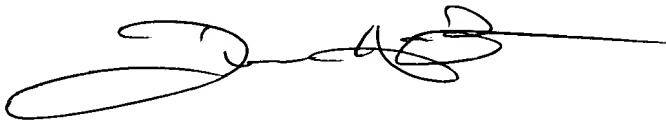
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FF



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